

8-475-6123 (161-1)

THE UNITED STATES DISTRICT COURT
THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE
HONORABLE JOHN F. GERRY

RECEIVED

JUL 23 1988

AT 8:30 _____ M
WILLIAM T. WALSH, CLERK

UNITED STATES OF AMERICA,
Plaintiff,

and

STATE OF NEW JERSEY,
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,
Plaintiff-Intervenor,

v.

Civil Action No. 85-4386

02-89-0027

✓ ROHM AND HAAS COMPANY, INC., ✓
✓ MARVIN JONAS, INC., Q
✓ CBS, INC., Q
✓ OWENS-ILLINOIS, INC., Q
✓ CENCO, INC., Q
✓ ALMO, INC., Q
✓ MANOR HEALTH CARE CORPORATION, Q
✓ TRIANGLE PUBLICATIONS, INC., ↑
✓ THE GLIDDEN COMPANY,
✓ E.I. DUPONT DE NEMOURS & COMPANY,
✓ ALLIED PAPER, INC.,
✓ BETZ LABORATORIES, INC.,
✓ HERCULES INCORPORATED,
✓ OWENS-CORNING FIBERGLAS CORPORATION,
✓ SPS TECHNOLOGIES, INC.,
✓ THE GILBERT SPRUANCE COMPANY,
Defendants,

v.

JOHN CUCINOTTA & JOSEPH CUCINOTTA,
Third-Party Defendants.

Amended

Amended

9/29/89

PARTIAL CONSENT DECREE

This Partial Consent Decree is made and entered into by and between
(1) the United States of America on behalf of the United States Environmental
Protection Agency ("the United States"); (2) the State of New Jersey on behalf
of the Department of Environmental Protection ("the State"); (3) Hercules



Incorporated, Owens-Corning Fiberglas Corporation, Triangle Publications Inc., The Glidden Company, E.I. Dupont de Nemours & Company, Allied Paper, Inc., CBS, Inc., Betz Laboratories, Inc., SPS Technologies, Inc., and The Gilbert Spruance Company ("the De Minimis Defendants"), including all respective corporate successors and assigns, as well as any divisions which are not separately incorporated;

WHEREAS, the United States of America, on behalf of the Administrator of the United States Environmental Protection Agency filed a complaint in the United States District Court for the District of New Jersey on September 10, 1985 against the Rohm and Haas Company, Inc., Marvin Jonas, Inc., CBS Records Inc., Owens-Illinois, Inc., CENCO, Inc., Almo Inc. and Manor Health Care Corporation ("Initial Defendants") pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §9607(a), seeking recovery of its costs incurred and to be incurred in responding to the release and threat of release of hazardous substances at or in connection with the Lipari Landfill, Mantua Township, Gloucester County, New Jersey, and any geographical area to which hazardous substances from the Lipari Landfill have been released ("the Site"), as well as declaratory relief pursuant to 28 U.S.C. §2201;

WHEREAS, on January 29, 1986 the State filed a Complaint in Intervention in the suit initiated by the United States on September 10, 1985, seeking recovery of costs the State has incurred and will incur in the future in response to the release and threatened release of hazardous substances from the Site;

WHEREAS, on March 6, 1986, Rohm and Haas Company, Inc. filed a third-party complaint against Nick Lipari, the landfill owner, seeking indemnification or contribution of costs and damages. This complaint was dismissed on November 18, 1987;

WHEREAS, on April 25, 1986, Manor Health Care Corporation filed a third-party Complaint against John Cucinotta and Joseph Cucinotta seeking indemnification or contribution for all sums which may be adjudged against Manor Health Care Corporation;

WHEREAS, on *July 28*, 1988, the Complaint was amended to add as defendants: Triangle Publications, Inc., The Glidden Company, E.I. DuPont de Nemours & Company, Allied Paper, Inc., Betz Laboratories, Inc., Hercules Incorporated, Owens-Corning Fiberglas Corporation, SPS Technologies, Inc., The Gilbert Spruance Company, and CBS, Inc.;

WHEREAS, the United States and the State have incurred and continue to incur response costs in responding to the release and threat of release of hazardous substances at or in connection with the Site;

WHEREAS, the State has a potential claim for natural resources damages;

WHEREAS, the settlement embodied in this Partial Consent Decree involves only a minor portion of the response costs which have been and will be incurred to remediate the Site and involves only a minor portion of the natural resource damages, if any, relating to the Site;

WHEREAS, based on currently available information, the Regional Administrator of the United States Environmental Protection Agency, Region II ("the Regional Administrator") and the Commissioner of the New Jersey Department of Environmental Protection ("the Commissioner") have determined that (1) the amount of hazardous substances contributed by each De Minimis Defendant is minimal in comparison to the other hazardous substances at the Site, and (2) the toxic or other hazardous effects of the hazardous substances contributed to the Site by each De Minimis Defendant is minimal in comparison to the other

hazardous substances at the Site, and collectively, do not contribute disproportionately to the cumulative toxic or other hazardous effects of the hazardous substances at the Site;

WHEREAS, the Regional Administrator and the Commissioner have determined that this Partial Consent Decree is practicable and in the public interest; and

WHEREAS, the United States, the State of New Jersey, and the De Minimis Defendants agree that settlement of the Plaintiffs' claims against the De Minimis Defendants identified herein is without the admission or adjudication of any issue of fact or law and is the most appropriate means of resolving the responsibility of the De Minimis Defendants for the costs incurred and to be incurred at the Site and for natural resource damages, if any:

NOW, THEREFORE, it is ORDERED, ADJUDGED and DECREED as follows:

I. JURISDICTION

This Court has jurisdiction over the subject matter and the parties to this action. The parties agree to be bound by the terms of this Partial Consent Decree and not to contest its validity in any subsequent proceeding to implement or enforce its terms.

II. PARTIES BOUND

This Partial Consent Decree shall apply to and be binding upon all signatories and their respective successors and assigns. Each signatory to this Partial Consent Decree represents that he or she is fully authorized

to enter into the terms and conditions of this Partial Consent Decree and to legally bind the Party represented by him or her.

III. PAYMENT

1. Each De Minimis Defendant shall pay the amounts set forth in Attachments 1 and 2 to this Partial Consent Decree, which are incorporated herein by reference, within 30 days of the entry of this Partial Consent Decree.

2. Each payment shall be made by certified or cashier's check. Each check shall reference the Site name, the name of the De Minimis Defendant, and Civil Action number of this case. Each De Minimis Defendant shall pay 90% of the amount set forth in Attachment 1 to the "EPA - Hazardous Substance Superfund", and shall send such payment to:

EPA Superfund
P.O. Box 371003M
Pittsburgh, Pennsylvania 15251

Each De Minimis Defendant shall pay 10% of the amount set forth in Attachment 1 to this Partial Consent Decree and 100% of the amount set forth in Attachment 2 to this Partial Consent Decree to the "Treasurer, State of New Jersey", and shall send such payment to:

Gerard Burke
New Jersey Department of Environmental Protection
Office of Regulatory Service
401 East State Street
Trenton, New Jersey 08625

3. Each De Minimis Defendant shall concurrently send a copy of its checks to Helene Cohen, Esquire, United States Environmental Protection Agency, Office of Regional Counsel, 26 Federal Plaza, New York, New York 10278.

4. Payments made under this Partial Consent Decree are not penalties.

IV. CERTIFICATION AND STIPULATION

1. Each De Minimis Defendant certifies, for the purposes of this Partial Consent Decree and to the best of its knowledge, that: A) it has provided to the United States and made available to the State, all information currently in its possession or in the possession of its officers, directors, employees, contractors, agents or assigns, which relates in any way to the generation, treatment, transportation, storage, or disposal of hazardous substances at or in connection with the Site; B) the hazardous substances it has contributed to the Site, if any, do not contribute disproportionately to the cumulative toxic or other hazardous effects of the hazardous substances at the Site, and the toxic or other hazardous effects of such substances is minimal in comparison to the effects of the other hazardous substances at the Site; and C) the hazardous substances it has contributed to the Site, if any, do not amount to more than 1% of the total volume of hazardous substances disposed of at the Site.

V. COVENANT NOT TO SUE

1. Subject to the Reservation of Rights in Section VI of this Partial Consent Decree, upon payment of the amounts specified in Section III, Paragraph 1, and in consideration of said payments, the United States and the State covenant not to sue or to take any other civil or administrative action against any of the De Minimis Defendants for "Covered Matters." "Covered Matters" shall include: (a) any potential civil liability pursuant to Section 7003 of RCRA, 42 U.S.C. §6973 with regard to the Site; (b) any and all civil liability for reimbursement of response costs or for injunctive

relief pursuant to Sections 106 or 107(a) of CERCLA, as amended, 42 U.S.C. Sections 9606 or 9607(a), the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.1 et seq. ("Spill Act"), the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq. ("WPCA"), and any other State statutory and State common law, with regard to the Site; and (c) all civil liability relating to past or future injury to, destruction to or loss of natural resources within the meaning of CERCLA, 42 U.S.C. Section 9601 et seq., under the jurisdiction of the United States Department of Interior or the State arising out of or related to the release or threatened release of hazardous substances at or near the Site.

2. In consideration of the covenant not to sue in Paragraph 1 of this Section, the De Minimis Defendants agree not to assert any claims or causes of action against the United States, the Hazardous Substances Superfund or the State arising out of the Covered Matters.

VI. RESERVATION OF RIGHTS

1. Nothing in this Partial Consent Decree is intended to be nor shall it be construed as, a release or covenant not to sue for any claims or causes of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the United States and/or the State may have at present or which it may have in the future against the De Minimis Defendants for:

- a) any continuing liability as a result of failure to make the payments required by Section III, Paragraph 1 of this Partial Consent Decree; and,
- b) any matters not expressly included in Covered Matters.

2. Nothing in this Partial Consent Decree is intended to limit the ability of the United States, the State or any other party to this action to seek or obtain further relief, including reimbursement of costs, contribution or indemnity, from a De Minimis Defendant if information not currently known by the United States is discovered which shows: (A) that the amount of hazardous substances contributed by that De Minimis Defendant, if any, to the Site, disproportionately contributes to the cumulative toxic or other hazardous effects of the hazardous substances at the Site; (B) the toxic or other hazardous effect of such substance is not minimal in comparison to the effects of other hazardous substances contributed to the Site; or (C) that the particular De Minimis Defendant has contributed more than 1% of the total volume of hazardous substances disposed of at the Site. The term "information not currently known" shall not include judicial interpretations of information known by the United States at the time of the execution of this Partial Consent Decree.

3. Nothing in this Partial Consent Decree is intended as a release or covenant not to sue for any claims or causes of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the United States or the State may have against any person, firm, corporation or other entity not a De Minimis Defendant under this Partial Consent Decree. The United States, the State and the settling De Minimis Defendants expressly reserve all claims, demands and causes of action, either judicial or administrative, past or future, in law or in equity, against any person or entity who is not a signatory party to this Partial Consent Decree for any matter arising out of or in connection with the Site.

4. Nothing in this Partial Consent Decree is intended to limit the ability of the United States, the State or any other party to this action, to obtain further relief, including reimbursement of costs, contribution or indemnity, from any of the De Minimis Defendants if the total costs incurred, excluding natural resource damages, by the United States and the State in responding to the release and threatened release of hazardous substances at or in connection with the Site exceed \$94,000,000.

5. The United States, the State, and the De Minimis Defendants hereby agree that the actions undertaken by the De Minimis Defendants in accordance with this Partial Consent Decree do not constitute an admission of liability by any De Minimis Defendant. This Partial Consent Decree shall not be used as evidence in any judicial or administrative proceeding except one to enforce this Partial Consent Decree.

VII. CONTRIBUTION PROTECTION

Except as provided in Sections IV and VI of this Partial Consent Decree, the United States and the State agree that by entering into and carrying out the terms of the Partial Consent Decree, each De Minimis Defendant will have resolved its liability to the United States and the State pursuant to Sections 113(f) and 122(g) of CERCLA, and shall not be liable for claims for contribution for Covered Matters. The sums paid by the De Minimis Defendants pursuant to the terms of this Partial Consent Decree shall reduce the potential liability of the Initial Defendants, Third-Party Defendants and Future Defendants to the United States and State for Covered Matters. Potential liability to the United States shall be reduced by the amount

of the settlement sums apportioned to the United States, and potential liability to the State shall be reduced by the amount of the settlement sums apportioned to the State.

VIII. COUNTERPARTS

This Partial Consent Decree may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IX. PUBLIC COMMENT

This Partial Consent Decree shall be subject to a thirty day public comment period. The United States or the State may unilaterally withdraw its consent to this Partial Consent Decree if comments received disclose facts or considerations which show that this Partial Consent Decree is inappropriate, improper or inadequate.

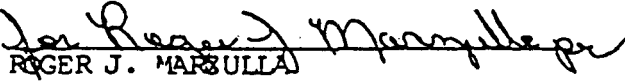
X. EFFECTIVE DATE

The effective date of this Partial Consent Decree shall be the date of entry by this Court as indicated below.

SO ORDERED this day of , 198 .

United States District Judge

For Plaintiff United States of America:

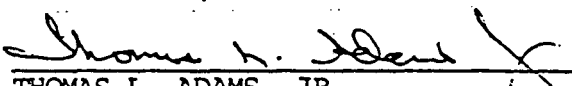

ROGER J. MARZULLA

Acting Assistant Attorney General
Land and Natural Resources Division
United States Department of Justice

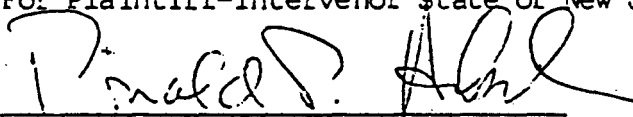
United States Attorney
District of New Jersey

By:


JAMES WOODS
Assistant United States Attorney


THOMAS L. ADAMS, JR.
Assistant Administrator for
Enforcement and Compliance Monitoring
United States Environmental Protection Agency

For Plaintiff-Intervenor State of New Jersey:


By: Ronald P. Heksch
Deputy Attorney General
W. CARY EDWARDS
ATTORNEY GENERAL OF NEW JERSEY

United States v. Rohm and Haas Company, Inc., et al.,

PARTIAL CONSENT DECREE

2/17/28
Triangle Publications, Inc.

By:

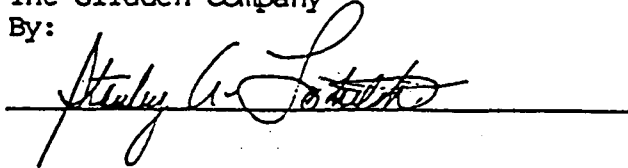
William J. Henrich
PRES

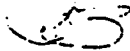
United States v. Rohm and Haas Company, Inc., et al.,

PARTIAL CONSENT DECREE

The Glidden Company

By:

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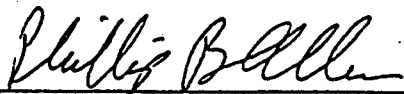
A small, handwritten mark or signature, possibly the number "53", is located below the main signature line.

United States v. Rohm and Haas Company, Inc., et al.,

PARTIAL CONSENT DECREE

E.I. DuPont de Nemours & Company

By:



Director of Manufacturing
Fabricated Products Department

United States v. Rohm and Haas Company, Inc., et al.,

PARTIAL CONSENT DECREE

Allied Paper, Inc.

By:

Samuel Friedman
Vice - President

12-10-68

United States v. Rohm and Haas Company, Inc., et al.,

PARTIAL CONSENT DECREE

Betz Laboratories, Inc.

By:

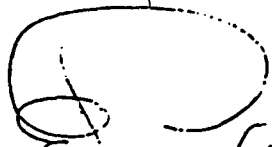
William C. Bragg
Vice President

United States v. Rohm and Haas Company, Inc. et al.,

PARTIAL CONSENT DECREE

CBS Inc.

By:

A large, handwritten signature in dark ink, appearing to be "George Vradenburg III", is written over a horizontal line.

George Vradenburg III, Esq.
Vice President and General Counsel

United States v. Rohm and Haas Company, Inc., et al.,

PARTIAL CONSENT DECREE

Hercules Incorporated

By:

Fred L. Buckner

726
OK
S/ST

United States v. Rohm and Haas Company, Inc., et al.,

PARTIAL CONSENT DECREE

SPS Technologies, Inc.

By:

Harry J. Wilkinson
Harry J. Wilkinson
President

United States v. Rohm and Haas Company, Inc., et al.,

PARTIAL CONSENT DECREE

The Gilbert Spruance Company

By:

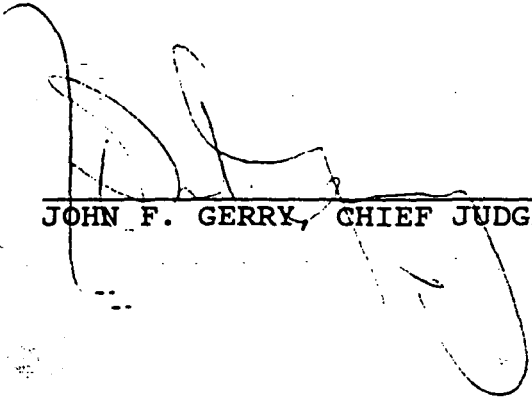
Robert Greene, Executive V. P.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,	:	
Plaintiff,	:	
v.	:	Civil Action 85-4386
ROHM & HAAS COMPANY, et al,	:	
Defendants,	:	ORDER

This matter having come before the court, and the court having considered the submissions of the parties;

It is, this 29th day of September, 1989, ORDERED that the motion by plaintiff for entry of the partial consent decree lodged with this court on July 28, 1988 is GRANTED.



JOHN F. GERRY, CHIEF JUDGE

REMEDIAL COSTS

PAYMENT SCHEDULE

De Minimis Defendant

Amount

Triangle Publications, Inc.....	\$376,552.
The Glidden Company.....	\$376,552.
E.I. Dupont de Nemours & Company.....	\$376,552.
Allied Paper, Inc.....	\$379,167.
Betz Laboratories, Inc.....	\$ 90,282.
CBS, Inc.....	\$376,552.
Owens-Corning Fiberglas Corporataion.....	\$268,965.
Hercules Incorporated.....	\$268,965.
SPS Technologies, Inc.....	\$180,000.
The Gilbert Spruance Company.....	<u>\$180,000.</u>
Total.....	\$2,873,587.

9 7/8

2,586,228.3

NEW JERSEY
NATURAL RESOURCE DAMAGE
PAYMENT SCHEDULE

<u>De Minimis Defendant</u>	<u>Amount</u>
Triangle Publications, Inc.	\$21,724.
The Glidden Company	\$21,724.
E.I. Dupont de Nemours & Company	\$21,724.
Allied Paper, Inc.	\$19,109.
Betz Laboratories, Inc.	\$ 4,859.
CBS, Inc.	\$21,724.
Owens-Corning Fiberglas Corporation.....	\$15,518.
Hercules Incorporated	\$15,518.
SPS Technologies, Inc.....	\$ 9,660.
The Gilbert Spruance Company.....	<u>\$ 9,660.</u>
Total	\$161,220.

+ 287 358.70

448,578.70